IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

OP.No. 14863 of 1999(T)

PETITIONER:

COCHIN THURAMUGHA THOZHILALI UNION, REG. NO.42, FORT KOCHI BRANCH, CALVATHY ROAD, KOCHI-1, REP. BY ITS CONVENOR, M.K.SHERIFF, S/O.M.B.KHASIM, AGED 44 YEARS, H.NO.II/1027, THURUTHY, KOCHI-1.

BY ADV. SRI.A.X.VARGHESE
SRI.DENIZEN KOMATH

RESPONDENTS:
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1. STATE OF KERALA, REP. BY ITS SECRETARY, MINISTRY OF LABOUR, SECRETARIAT, TRIVANDRUM.

2. REGIONAL JOINT LABOUR COMMISSIONER, CIVIL STATION, KAKKANADU.

3. DEPUTY LABOUR OFFICER, KOCHI-1.

4. CONVENOR, KERALA HEAD LOAD WORKERS WELFARE FUND, MATTANCHERRY LOCAL COMMITTEE, KOCHI-2.

5. CHAIRMAN, KERALA HEAD LOAD WORKERS WELFARE FUND, MATTANCHERY LOCAL COMMITTEE, KOCHI-2.

ADDL. 6. COCHIN PORT LABOUR UNION, REPRESENTED BY ITS GENERAL SECRETARY B.HAMSA, COCHIN -3.

(ADDITIONAL R6 IS IMPLEADED AS PER ORDER DATED 16/7/99 IN CMP 28653/99)

BY ADV. SRI.A.V.RAMAKRISHNA PANICKER (FOR R4 & R5)
SRI.P.RAMAKRISHNAN
GOVERNMENT PLEADER, SMT.LATHA THANKAPPAN
SRI.R.SATHISH KUMAR, SC, KHLWWB
SRI.RENIL ANTO KANDAMKULATHY,SC,KHLWWB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 14863/1999/T

ORDER ON CMP NO.23989/1999 IN OP NO.14863/1999

CLOSED

SD/-
22.11.2007 KURIAN JOSEPH,
JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE DISPUTE LODGED BY THE PETITIONER'S UNION BEFORE THE ASSISTANT LABOUR OFFICER, KOCHI, DATED 8-5-96.

EXT. P2: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN O.P. NO.19385/96 DATED 14-3-97.

EXT. P3: COPY OF THE ORDER VIDE REF.NO.206/96 DATED 9-12-97.

EXT. P4: COPY OF THE STATUTORY APPEAL PREFERRED UNDER SECTION 21(6) OF THE KERALA HEAD LOAD WORKERS ACT, DATED 29-1-98.

EXT. P5: COPY OF THE ORDER IN S.A.9/98 DATED 16-1-99.

EXT. P6: COPY OF THE INTIMATION ISSUED BY THE 5TH RESPONDENT VIDE REF. NO.E3-1101/95 DATED 17-4-99.

RESPONDENT'S EXHIBITS:

EXT. R5(A): TRUE EXTRACT OF LETTER DATED 4-12-1991 OF THE PETITIONER UNION.

EXT. R5(B): TRUE EXTRACT OF DECISION OF THE MEETING OF THE KHWW BOARD HELD ON 20-1-1992.

/TRUE COPY/

P.A. TO JUDGE

JP

KURIAN JOSEPH, J.

O.P. No.14863 of 1999

Dated this the 22nd day of November, 2007

JUDGMENT

The writ petition is filed with the following prayers:-

> i) Call for the records pertaining to the issuance of Ext.P3, P5 and P6 and issue a writ of certiorari, any other order, writ or direction and quash the same.
>
> ii) Issue a writ of mandamus directing the respondents 2 to 5 to provide work for the petitioner Union's members, by including them in the Pool at the Calvathy area, Cochin with immediate effect.

Petitioner is essentially claiming the benefit of Ext.P5 order passed by the appellate authority. It is fairly clear from the order itself that the benefit can be extended to only those registered workers. It is seen from Ext.P6 order by the Board that since the names of the workers have been removed from the rolls, the benefit of Ext.P5 cannot be extended to those registered workers who were once on the rolls. I am afraid the stand taken by the Board in Ext.P6 cannot be appreciated. In case there are registered workers available, who faired originally in the rolls of Calvathy area, such workers are entitled to the benefit of Ext.P5

in future vacancies which arise in the pool in the order of seniority and suitability of such workers. If any such registered workers are available, they may approach the 5th respondent in which case the 5th respondent will pass fresh orders in the light of the observations contained in Ext.P5 within another four months.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

O.P.No. 14863 of 1999

JUDGMENT

22nd November, 2007